

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ANTHONY MOORE,

Petitioner,

v.

THOMAS DICKHAUT,

Respondent.

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**Civil Action No.
11-12248-FDS**

ORDER ON RESPONDENT’S MOTION TO DISMISS

SAYLOR, J.

On December 16, 2011, Anthony Moore filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his petition, he raised the following three grounds for review: (1) that the police lacked reasonable suspicion to conduct a *Terry* stop and exceeded the lawful scope of a *Terry* search in violation of the Fourth and Fourteenth Amendments; (2) that the procedures used to identify him were unduly suggestive and violated the Fourth and Fourteenth Amendments of the United States Constitution; and (3) that he received ineffective assistance from counsel at trial in violation of the Sixth Amendment of the United States Constitution. On May 15, 2012, respondent moved to dismiss the entire petition because it contained unexhausted claims.

On October 2, 2012, this Court issued a memorandum and order on respondent’s motion to dismiss. The Court determined that petitioner had exhausted his state court remedies as to Grounds One and Two, but had not as to Ground Three. The Court ruled that petitioner could elect to dismiss his unexhausted claim and proceed with review of his two exhausted claims.

On October 25, 2012, petitioner filed a motion requesting that this Court dismiss Ground Three and proceed with review of his exhausted claims. On October 30, 2012, this Court granted petitioner's motion. (Doc. 21).

In accordance with the foregoing, respondent's motion to dismiss will be granted in part and denied in part. This matter shall proceed with respect to Grounds One and Two. A scheduling order will issue herewith.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: November 29, 2012